

CODE OF ORGANIZATION AND CIVIL PROCEDURE [CAP. 12.]

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186. (1) Where two or more parties are pleading together, they shall, on filing the pleading, apart from giving their respective addresses, designate, by means of a note, a person, being one of the persons mentioned in article 180, as that on whom the answer and any other act of the opposite party may be served on behalf of all the parties pleading,

Designation of person to be served with written pleading.
Amended by:
XV.1913.63;
XXIV.1995.94;
XXXI. 2002.64.

(2) If a pleading is directed against two or more persons, such persons may, on filing a joint answer, designate, by means of a note, a person, being one of the persons mentioned in article 180, as that on whom any act of the opposite party may be served on behalf of all of them.

(3) Where a person is so designated, any service relating to the act in respect of which such designation was made, shall be effected on such person:

Provided that any of such persons may by means of another note declare that he henceforth requires separate service at an address, being the address of his residence or place of business, to be indicated by him.

187. (1) Service shall be effected by the delivery of a copy of the pleading to the person on whom the pleading is to be served or by leaving such copy at the place of residence or business or place of work or postal address of such person with some member of his family or household or with some person in his service or his attorney or person authorized to receive his mail:

Mode of service.
Amended by:
VII. 1856.2;
XV. 1913.63;
XIX. 1963.8;
XXVII. 1979.13;
XXIV. 1995.95;
XXII. 2005.35.

Provided that it shall not be lawful to leave such copy with any person under the age of fourteen years, or with any person who, on account of infirmity of mind, is unable to give evidence of such service. A person shall be presumed to be able to give such evidence unless the contrary is proved; and no objection may be raised on the ground of irregularity of the service for any of those reasons, if it is shown that the copy has actually reached the person to be served therewith:

Provided further that where a person to whom a pleading is addressed refuses to receive it personally from an executive officer of the courts, the court may upon an application by the interested party and after hearing the executive officer of the courts and considering all the circumstances of the incident, declare by means of a decree that service shall have been effected on the day and time of the refusal and such decree shall be considered as a proof of service for all purposes of law.

(2) In the case of persons on board merchant ships, or members of the crew having no place of residence in Malta, service may be effected by delivering such copy to the master of the ship or any other person acting in that behalf.

(3) If it appears from the certificate of the officer charged with the service of a written pleading or any judicial act that, although it does not result that the person upon whom such a pleading or act is to be served, is abroad, access to his place of residence cannot be obtained, or his place of residence is not known, the court may direct service to be effected by the posting of a copy of the written

pleading or act at the place, in the town or district in which official acts are usually posted up, and by publishing a summary of such written pleading or act in the Gazette and in one or more daily newspapers as the court may direct and, where possible, when the residence is known, by posting up a copy of the pleading on the door leading to such residence. The court may also adopt such other measures as it may deem fit to bring the pleading or act to the notice of the person upon whom the same is to be served. In such cases, service shall be deemed to have been made on the third working day after the date of last publication or after the date of such posting, whichever is the later. In cases where service has been ordered with urgency, service shall be deemed to have been made at such time, after posting or publication as the court may determine, which time is to be stated in the publication or posting.

(4) In the case of a body having a distinct legal personality, service on such body shall be effected by leaving a copy of the pleading:

- (a) at its registered office, principal office, or place of business or postal address with any of the persons mentioned in article 181A(2) or with an employee of such body; or
- (b) with any of the persons mentioned in article 181A(2) in the manner provided for in sub-article (1).

(5) If it appears from the certificate of the officer charged with the service of a written pleading that service as provided in sub-article (4) has not been effected, the court may, if it appears that at least one of the persons mentioned in article 181A(2) is in Malta, direct service to be effected by the posting up of a copy of the written pleading at the place in the town or district in which official acts are usually posted up, where the body has its registered office, principal office, or place of business, and by publishing a summary of such written pleading in the Government Gazette and in one or more daily newspapers as the court may direct and, where possible, by posting up a copy of the pleading on the door of the registered office, principal office, or place of business. The court may also adopt such other measures as it may deem fit to bring the pleading to the notice of any of the persons mentioned in article 181A(2).

(6) Where it appears that all the persons mentioned in article 181A(2) are absent from Malta or there exist no such persons, the court shall appoint a curator in the interest of such body as provided for in article 929(d).

(7) In the case of an action against a ship or other vessel, service shall be affected by the delivery of a copy of the pleading to the master thereof or any other person acting in that behalf or, in the absence of such persons, on the agent of the ship or other vessel, as the case may be, or in the absence of such persons and agent, on curators appointed by the court in terms of article 929:

Provided that the court may also adopt such other measures as it may deem fit to bring the pleading to the notice of the person upon whom the same is to be served.

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(8) Saving the provisions of article 193, service may also be effected by officers of the Post Office in such manner and under such rules in conformity with postal regulations as the Minister responsible for justice may order by notice in the Gazette:

Provided that, applications of appeal, and sworn applications made under the provisions of the Constitution of Malta and the European Convention Act, shall be served by the executive officers of the courts.

Cap. 319.

188. (1) The officer charged with the service of an act shall, on the same day when he serves or unsuccessfully seeks to serve the act, or, at the latest, on the following day, draw up a certificate stating whether the service was effected or not. In the affirmative, the certificate shall state the name and surname of the person on whom service was effected and, if the act was not served directly on the person on whom service was to be effected, the name and the surname of the person to whom the copy was delivered and the place where the act was served; in the negative, the certificate shall state the reason why service was not effected.

Certificate of service.
Amended by:
XV. 1913.64.
Substituted by:
XIX. 1965.9.

(2) Any certificate referred to in sub-article (1) shall be drawn up in the manner prescribed by the registrar, who may also direct that a form or forms printed, impressed or otherwise prepared be used for the purpose.

(3) The registrar may also require that any such certificate be confirmed on oath by the officer entrusted with the service and any such oath shall be administered by the registrar.

189. (1) If an act filed in, or a warrant or garnishee order issued by any court in the Island of Malta is to be served or, as the case may be, executed in the Island of Gozo or Comino, a copy thereof shall be transmitted by the registrar of the said court to the Registrar of the Court of Magistrates (Gozo).

Service of acts and execution of warrants and orders in Gozo and Comino.
Added by:
XIX. 1965.10.
Amended by:
VIII. 1990.3.

(2) The officer effecting service or execution shall deliver to the Registrar of the Court of Magistrates (Gozo) the certificate of service or execution, duly confirmed on oath before the registrar himself who shall transmit it to the registrar of the court in which the act was filed or by which the warrant or order was issued.

190. (1) If an act filed in or a warrant or garnishee order issued by the Court of Magistrates (Gozo) is to be served or, as the case may be, executed in the Island of Malta, a copy thereof shall be transmitted by any officer of the said court to the registrar.

Service of acts and execution of warrants and orders in Malta.
Added by:
XIX. 1965.10.
Amended by:
VIII. 1990.3.
Substituted by:
XXIV. 1995.96.

(2) The officer effecting service or execution shall deliver to the registrar the certificate of service or execution, duly confirmed on oath before the registrar who shall transmit it to any officer of the Court of Magistrates (Gozo).

191. (1) Copies shall be printed, typewritten, made by other mechanical or electronic means or by any photographic process or written in ink:

Mode of preparing copies.
Substituted by:
XIX. 1965.11.
Amended by:
XXIV. 1995.97;
XXXI. 2002.69.

Provided that in every case they shall be drawn up in clear and easily legible characters.

(2) Copies shall also be certified by the person presenting them or by an advocate or legal procurator to be true copies of the originals.

Penalty in case of irregular copies.

Reckoning of time.

Provisions of this Title to apply to all courts and to all acts.

*Amended by:
XXVII. 1979.15.*

192. In case of non-compliance with the provisions contained in the last preceding article, the party shall be entitled to have another copy made in conformity with the said article at the expense of the person who prepared the irregular copy, provided that the request for such other copy be made to the registrar by the party concerned within two days after the delivery of the irregular copy; and in any such case, if a time is fixed, it shall not commence to run except on the delivery of the regular copy.

193. The provisions contained in this Title shall apply to all the courts and to all other acts filed by the parties or issued by the court, in so far as such provisions may be applicable to such courts and to such other acts:

Provided, however, that precautionary and executive warrants may only be served or executed by officers of the courts.

Title V

OF THE TRIAL OF CAUSES

Assignment of causes.

*Added by:
XXXI. 2002.70.*

Posting up of cause list.

*Amended by:
XI. 1859.9;
XXVII. 1979.16;
XXIV. 1995.98.*

Trial of causes.

*Amended by:
XXXI. 1934.31;
XXXIII. 1934.2;
XXVII. 1979.17;
VIII. 1981.5;
XXIV. 1995.99.
Substituted by:
XXXI. 2002.72.
Amended by:
IX. 2004.5.*

193A.(1) Causes shall be assigned in accordance with rules of court or regulations made in accordance with article 29.

(2) Such rules or regulations may also provide for the procedure to be followed in the pre-trial and trial stages of a cause which has been set down for hearing.

194. (1) The registrar shall cause a list of the causes which are to be tried at a particular sitting to be posted up at the side of the entrance of the court room where the causes are to be heard at least one hour before the case is to be heard, saving urgent cases referred to in article 154(2).

(2) The list shall bear the date on which it is posted up as aforesaid and shall be signed by the registrar.

(3) The list shall be deemed to be posted up, according to the regulations, on the date which it bears and at the time of the closing of the registry.

195. (1) A cause the written pleadings of which have been concluded shall be set down either for pre-trial hearings or for trial hearings as may be provided in regulations and shall be brought to a conclusion as expeditiously as possible:

Provided that in causes before the courts of inferior jurisdiction, the conclusion of the written pleadings shall take place when the party to be notified of the relative cause has been so notified in accordance with the provisions of this Code.

(2) (a) The court shall at the first hearing of both the pre-trial stage and the trial stage plan in advance and, after consulting with the advocates of the parties, all the